

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WINSTON HILTON,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.  
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**ORDER DENYING PETITION**

00 Cr. 678 (AKH)

On July 30, 2007, the Court received a letter from Winston Hilton, designated as petitioner in the caption above. I construe Hilton's letter as a motion for an order directing the Bureau of Prisons to transfer him to a Federal Correctional Institution in New York or New Jersey to complete his term of imprisonment, or in the alternative, vacating his conviction. His papers could also be construed as an application for a judicial declaration that he is not subject to deportation. To the extent that Hilton moves in any of these fashions, his application is denied.

On February 15, 2002, a federal jury found Hilton guilty of conspiracy to distribute narcotics, 21 U.S.C. § 846, and I sentenced him to 120 months imprisonment. See Judgment, Oct. 29, 2002 (doc. no. 211). Hilton appealed his conviction and sentence, which the United States Court of Appeals for the Second Circuit subsequently affirmed. See Mandate, Jan. 11, 2007 (doc. no. 278).

In August 2003, Hilton petitioned to vacate his conviction pursuant to 28 U.S.C. § 2255. Shortly thereafter, then-Chief Judge Mukasey dismissed the petition and certified that an appeal taken from his order would not be taken in good faith. See Order of Dismissal, No. 03 Civ. 5828 (MBM) (Aug. 4, 2003) (doc. no. 2).

On March 21, 2007, Hilton requested grand jury records in order to “prepare a collateral attack upon his conviction.” I denied the request. See Order Denying Motion for Grand Jury Transcript as to Winston Hilton, 00 Cr. 678 (AKH) (Apr. 25, 2007) (doc. no. 287).


With respect to Hilton’s letter-application of July 21, 2007, this Court lacks the authority to order as Hilton requests. The federal Bureau of Prisons decides where to house inmates in its custody, not this Court. See 18 U.S.C. § 3621(b). Nor does this Court decide whether Hilton should be deported, or whether to detain deportees. See 8 U.S.C. §§ 1226, 1229.

To the extent that Hilton challenges his detention by petition for writ of habeas corpus, the petition fails because he has not alleged or given any reason why he is being held in custody in violation of the Constitution or laws of the United States. See 28 U.S.C. § 2241(3). Nor has he named a respondent. See 28 U.S.C. § 2242. If Hilton’s letter should be construed as a motion to vacate his sentence pursuant to 28 U.S.C. § 2255, it is defective for the same reasons, and because it is time-barred, and as a second and successive petition under 28 U.S.C. § 2244.

For the foregoing reasons, Hilton’s letter-application is DENIED insofar as it seeks relief. The Clerk shall docket this Order, and Hilton’s letter-application, under docket number 00 Cr. 678, to which it pertains.

SO ORDERED.

Dated: August 1, 2007  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge